THE HON'BLE SRI JUSTICE L. NARASIMHA REDDY

W.P.NO.18794OF 2005

Dated 01-09-2005

Between:

The Municipal Corporation of Guntur,

rep, by its Commissioner, Guntur.

…Petitioner

AND

The Assistant Provident Fund Commissioner-

Cum-Authority u/s.7-A of the Employees

Provident Fund & Miscellaneous Provisions

Act, 1952, Guntur, and 19 others.

…Respondents

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W.P.NO.18794 OF 2005

ORDER:

Petitioner is the Municipal Corporation of Guntur. It had engaged several persons as Contract Labour. About 500 such workers have approached the Assistant Provident Fund Commissioner-cum-Authority under Section 7-A of the Employees' Provident Fund & Miscellaneous Provisions Act, 1952, the 1st respondent, alleging that the petitioner is their principal employer, and it did not make any contribution of Provident Fund, for them. Thereupon, the 1st respondent issued a notice to the petitioner.

The petitioner responded, and several hearings were held before the 1st respondent. Ultimately, through order dated 18-08-2005, the 1st respondent held that

the petitioner is liable to make the contributions of Provident Fund, under Section 6 of the Employees' Provident Fund & Miscellaneous Provisions Act, 1952 (for short '*the Act*), with effect from 01-04-2001. The grievance of the petitioner is that there was no material before the 1st respondent, to fasten the liability with effect from 01-04-2001, and at the most, it could have been held liable to pay the contribution from 01-04-2005.

Learned counsel for the petitioner submits that neither in the notice of hearing, nor at any stage, the liability of the petitioner, with effect from 01-04-2001; was indicated. He further contends that even the employees did not make such a claim.

Sri R.N. Reddy, learned Standing Counsel for the 1st respondent, on the other hand, submits that the impugned order came to be passed only after examination of the record and consideration of the submissions made by the petitioner, and no exception can be taken to it. He further contends that the petitioner can avail the remedy of appeal under Section 7-I of the Act.

Heard the learned counsel for the petitioner and learned Standing Counsel for the 1st respondent.

A perusal of the order under challenge discloses that about 500 workers have approached the 1st respondent complaining that, the petitioner, who is the principal employer, did not make the contributions. On that, a notice of enquiry was issued, and the matter was heard on several occasions. The petitioner does not dispute that it is the principal employer, within the meaning of the Contract Labour (Abolition and Regulation) Act. The dispute is only as to the period from which, it can be required to make the contributions. It is true that an appeal is provided, against the impugned order, under Section 7-I of the Act. However, the petitioner need not be required to undergo the ordeal of filing appeal for two reasons. Firstly, the order does not disclose that any discussion was undertaken, to fasten the liability from 01-04-2001,

when the complaint was made in the year 2001, itself. Secondly, under Section 7-B of the Act, an aggrieved party can file a review before the Authority under Section 7-A, seeking review, if any factual or material error had crept in to the order passed under Section 7-A of the Act.

For the foregoing reasons, the writ petition is disposed of, directing that,

a. the petitioner shall be liable to make the contributions of Provident Fund with effect from 01-04-2005,

b. So far as the liability for the period from 01-04-2001 to 31-03-2005 is concerned, it shall be open to them, to file a review before the 1st respondent, within a period of four weeks from today.

c. There shall be no order as to costs.

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L. NARASIMHA REDDY, J.

Dt.01-09-2005.

NOTE:

Office to furnish

copy in three days.

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